

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In Re:)	
)	Chapter 7
WILLIAM EDWARD CORRIGAN,)	
)	Case No. 20-09613
<u>Debtor.</u>)	
WILLIAM EDWARD CORRIGAN,)	Hon. Carol A. Doyle
)	
Plaintiff,)	
)	
v.)	
)	
THE SOCIAL SECURITY)	
ADMINISTRATION, ANDREW SAUL,)	
in his official capacity as Commissioner of))	
the Social Security Administration, THE))	
UNITED STATES SMALL BUSINESS))	
ADMINISTRATION, JOVITA))	
CARRANZA, in her official capacity as))	
Administrator of the United States Small))	
Business Administration, THE UNITED))	
STATES DEPARTMENT OF THE))	
TREASURY, and STEVEN MNUCHIN,))	
in his official capacity as the Secretary of))	
the United States Department of the))	
Treasury,)	
)	
<u>Defendants.</u>)	

**COMPLAINT SEEKING DECLARATION
OF DISCHARGEABILITY OF DEBT**

William Edward Corrigan (“Corrigan” or “Debtor”), through his counsel, Bruce C. Scalabrino and Gregg J. Simon of the law firm of Scalabrino & Arnoff, LLP, seeking a declaration of a) the dischargeability of debt of the United States Small Business Administration (“SBA”) and b) the post-petition termination of administrative offset rights being applied against Corrigan’s monthly Social Security disability benefit payments by the Social Security Administration (“SSA”) and the United States Department of the Treasury (“Treasury”) to recover the

debt owed to the SBA, pursuant to Rules 4007, 7001(6) and (9), and 7003 of the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rule(s)”), states as follows:

JURISDICTION AND VENUE

1. On April 21, 2020 (the “Petition Date”), Debtor filed a voluntary petition (the “Petition”) for relief under Title 11, Chapter 7 of the Code (the “Bankruptcy Case”).

2. This complaint seeks a determination, under Bankruptcy Rule 4007(a), of the dischargeability of the SBA’s debt and the SSA’s, Treasury’s and/or SBA’s right to continue, post-petition, to make administrative offsets against from Corrigan’s monthly SSDB payments pursuant to the Treasury’s Treasury Offset Program, *see* 31 U.S.C. §3716, and is an adversary proceeding within the meaning of Rule 7001 *et seq.*, of the Bankruptcy Rules.

3. Jurisdiction in this Court is predicated upon 28 U.S.C. §1334 and 28 U.S.C. §157. The matters alleged herein constitute a core proceeding within the meaning of 28 U.S.C. §157(b)(2)(I) and are properly referred to this Court by the United States District Court in accordance with 28 U.S.C. §157(a).

4. Venue in the Northern District of Illinois is proper pursuant to 28 U.S.C. §1409(a).

PARTIES

5. Corrigan is an Illinois resident residing in LaGrange, Cook County, Illinois.

6. The SBA, SSA, and Treasury are administrative agencies of the United States of America.

FACTS

7. In approximately November, 2008, Corrigan became indebted to the SBA by virtue of a personal guarantee he executed in connection with an SBA business loan (the “SBA

Debt”).

8. In approximately May, 2013, Corrigan began receiving monthly Social Security disability benefit (“SSDB”) payments from the SSA.

9. In approximately early 2013, Corrigan was informed that his monthly SSDB payments would be reduced as a result of the SBA Debt in accordance with the Treasury’s Treasury Offset Program.

10. In approximately August, 2013, the SSA began making deductions from Corrigan’s monthly SSDB payments.

11. On the Petition Date, Corrigan filed the Bankruptcy Case.

12. Corrigan’s Petition lists the SBA Debt as a pre-Petition debt. *See* Dkt. No. 1, Petition, Schedules C, D, E/F, J, and Statement of Financial Affairs for Individuals Filing for Bankruptcy.

13. Corrigan’s Petition lists Corrigan’s receipt of monthly SSDB payments from the SSA as income. *See* Dkt. No. 1, Petition, Schedules A/B, D, and Statement of Financial Affairs for Individuals Filing for Bankruptcy.

14. Corrigan’s Petition asserted his statutory exemption right to receive SSDB payments under Illinois law. *See* Dkt. No. 1, Petition, Schedule C and Statement of Financial Affairs for Individuals Filing for Bankruptcy.

15. The Social Security Act, specifically 42 U.S.C. § 407, also protects Social Security benefits paid or payable from creditor collection rights.

16. Since the Petition Date, no deductions appear to have been taken from Corrigan’s monthly SSDB payments.

COUNT I
(Right to Discharge of SBA Debt)

17. Debtor repeats and re-allege paragraphs 1 through 16 as if set forth herein.

18. The SBA has never alleged any facts or made any claims against Corrigan that would support an objection to his discharge in the Bankruptcy Case or an objection to the dischargeability of the SBA Debt. *See* 11 U.S.C. § 727; 11 U.S.C. §523.

19. Corrigan is entitled to discharge of the SBA Debt. *See* 11 U.S.C. § 727.

WHEREFORE, William Edward Corrigan respectfully request that this Court enter an order discharging his debt to the United States Small Business Administration, pursuant to 11 U.S.C. § 727, and for such further and other relief as this Court deems just and equitable.

COUNT II
(Termination of Administrative Offset Rights)

20. Debtor repeats and re-allege paragraphs 1 through 19 as if set forth herein.

21. Corrigan is ineligible to receive a month's SSDB payment post-petition from the SSA until he survives through the last day of that month. *See* 42 U.S.C. § 402; 42 U.S.C. § 423.

22. As a result, Corrigan's post-Petition monthly SSDB payments are not assets of the Bankruptcy Case estate.

23. Neither the SSA nor the Treasury have the right to administratively offset, via the Treasury's Treasury Offset Program or any other common law or statutory right, the SBA Debt, a pre-Petition debt, from any post-petition SSDB payments the SSA owes Corrigan. *See* 11 U.S.C. § 553(a).

24. Corrigan is entitled to an order formally terminating the SSA's and/or the SBA's and/or the Treasury's right to administratively offset the SBA Debt against any and all post-Petition SSDB payments owed to Corrigan. *See* Rule 4007.

WHEREFORE, William Edward Corrigan respectfully request that this Court enter an order terminating the Social Security Administration's, and/or the United States Small Business Administration's and/or the United States Department of the Treasury's ability, under 11 U.S.C. § 553 and the Treasury Offset Program or any other common law or statutory rights, to make administrative offsets against any Social Security Disability Benefit payments owed him, on or after April 21, 2020, based on his Small Business Administration's debt owed, on or before April 21, 2020, and for such further and other relief as this Court deems just and equitable.

WILLIAM EDWARD CORRIGAN,

By: /s/Bruce C. Scalabrino
One of His Attorneys

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